



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456

December 5, 2001



**CERTIFIED MAIL # 7099 3400 0018 1299 2774
RETURN RECEIPT REQUESTED**

Monadnock Disposal Service, Inc.
c/o John M. Peard, Sr., President
12 River Street
Jaffrey, NH 03452

SUBJECT: ADMINISTRATIVE ORDER NO. WMD 01-15

Dear Mr. Peard:

Enclosed is Administrative Order WMD 01-15 issued this date to Monadnock Disposal Service, Inc.

This Order is issued for violations of New Hampshire RSA 149-M:9,X and NH Administrative Rules Env-Wm 3103 and Env-Wm 3105, part of the NH Solid Waste Rules.

Should you have any questions regarding this Order, please contact Myrna Giroux of the Solid Waste Management Bureau, at 271-2925.

Sincerely

COPY 

Richard S. Reed
Administrator
Solid Waste Management Bureau
Waste Management Division
Department of Environmental Services

Enclosure: Administrative Order 01-15

cc: Gretchen C. Rule, DES Enforcement Coordinator
Public Information Officer, DES PIP Office
Michael J. Walls, Associate Attorney General
Catherine A. Wright, Inspector, SWMB
FA File

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NHDES

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Monadnock Disposal Service, Inc
12 River Street
Jaffrey, NH 03452

ADMINISTRATIVE ORDER
No. WMD 01-15

December 5, 2001

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Monadnock Disposal Service, Inc. pursuant to RSA 149-M:15. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. Monadnock Disposal Service, Inc. ("Monadnock") is a New Hampshire corporation having a mailing address of 12 River Street, Jaffrey, NH 03452.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 149-M, DES regulates the management and disposal of solid waste. Pursuant to rulemaking authority conferred thereby, the Commissioner of DES has adopted Env-Wm 100 – 300, 2100 *et seq.* ("Solid Waste Rules") to implement this program.
2. John M. Peard, Sr. is the owner and President of Monadnock.
3. Monadnock operates a solid waste collection, storage, and transfer facility at Old Sharon Road, Jaffrey, New Hampshire ("the Facility").
4. A standard solid waste management facility permit No. DES-SW-SP-99-004 ("the Permit") was issued to Monadnock for the Facility on July 28, 1999. A modification to the Permit was granted on June 1, 2000.
5. Pursuant to Env-Wm 3105.02(a) and (b), a solid waste facility shall submit an annual update of the facility's cost estimate for closure to DES by a specific date each year, and shall update financial assurance in an amount based on the most current cost estimate.
6. Pursuant to Env-Wm 3103.02(b) and (g)(1) and (2), closure cost estimates based on performance by a third party shall be itemized, documented, and include a line item reflecting at least a 10% contingency of total costs.
7. The Facility is a solid waste facility that has secured financial assurance through Letter of Credit No. 1634 dated November 16, 1998, issued by Bank of New Hampshire (BNH) in the amount of \$9,000.00.

8. Pursuant to Env-Wm 3103.03(b) and (e), solid waste facilities using a letter of credit for financial assurance shall establish a standby trust agreement to receive proceeds of the letter of credit. All documents shall be in a form and text that meet DES specifications.
9. As of the date of this order, Monadnock has not provided DES with an updated itemized cost estimate for the cost of removal, loading and transportation, site clean-up, and any other miscellaneous closure work including a 10% contingency, based on the maximum permitted storage capacity of the Facility and all work completed by a third party.
10. As of the date of this order, Monadnock has not provided DES with a completed standby trust agreement that adheres to DES specifications as they pertain to required content.
11. The following sequence of events shows a repeated effort by DES to work with Monadnock to attain compliance:
 - (a) 4/06/00 DES received a letter of credit dated November 16, 1998, from BNH for the Facility.
 - (b) 4/06/00 DES received a standby trust agreement, which had been signed by Mr. John M. Peard, Sr. and a representative of BNH on April 4, 2000.
 - (c) 4/27/00 DES sent a letter to Mr. Peard to notify him and Monadnock that the standby trust agreement submitted did not meet the requirements of Env-Wm 3100 in terms of required format or content and to request that another standby trust agreement be completed to comply with the Solid Waste Rules and submitted to DES no later than May 16, 2000.
 - (d) 5/24/00 DES called Mr. Peard again to inform him that the standby trust agreement submitted for the Facility did not meet financial assurance requirements as set forth in Env-Wm 3100.
 - (e) 5/30/00 DES received a second standby trust agreement dated May 11, 2000, with John M. Peard's signature on the signature lines for both Grantor and Trustee, with no signature for any representative from BNH.
 - (f) 5/31/00 DES issued an Approval to Operate effective June 1, 2000.
 - (g) 6/01/00 DES granted a Permit Modification allowing the Facility to extend hours of operation.
 - (h) 6/05/00 DES faxed a blank signature page for the May 11, 2000, standby trust agreement to Mr. Peard, explaining that signatures for both Monadnock and BNH were necessary and requested that an original signature page signed by both parties be submitted to DES.
 - (i) 4/05/01 DES called BNH in an attempt to obtain a copy of the completed standby trust agreement's signature page. DES staff faxed a copy of the standby trust agreement that was submitted without a BNH signature to the BNH Trust Department.
 - (j) 4/11/01 DES sent a letter to Mr. Peard notifying him that Monadnock was due to provide its annual updated closure cost estimates by June 1, 2001.
 - (k) 5/03/01 DES called BNH and learned that although no standby trust agreement between the Facility and BNH was in effect, BNH would be willing to execute one.
 - (l) 5/22/01 DES sent a letter to Mr. Peard notifying him that financial assurance for the Facility did not consist of a completed standby trust agreement to support Monadnock's letter of credit and requested "that a standby trust agreement, complete with seals and signatures of both the Grantor and the Trustee, be submitted within 30 days of receipt of this letter to comply with Env-Wm 3103.03(b) of the Solid Waste Rules."

- (m) 6/08/01 DES called Mr. Peard in regard to the overdue annual updated closure cost estimate as requested in the DES letter of April 11, 2001. Mr. Peard did not recall the letter.
- (n) 6/11/01 DES faxed copies of DES letters of April 11, 2001, and May 22, 2001, and asked that Mr. Peard respond as previously requested.
- (o) 8/17/01 DES issued Letter of Deficiency WMD 01-21 to Monadnock for not providing an updated closure cost estimate and an acceptable, completed Standby Trust Agreement. The postal receipt for the Letter of Deficiency was signed on 8/21/01.
- (p) 8/27/01 Mr. Peard called to inform DES staff that he was working toward compliance with the request as stated in the Letter of Deficiency.
- (q) 8/29/01 DES staff called Mr. Peard, who indicated that he would be contacting BNH to have a standby trust agreement executed for the Facility.
- (r) 8/29/01 DES e-mailed a sample standby trust agreement to Mr. Peard and faxed a copy of the DES standard standby trust agreement to BNH for reference in drawing up a document for Mr. Peard.
- (s) 9/12/01 DES received a copy of a fee calculation form and a Standby Trust Agreement dated August 24, 2001, between the Facility and BNH. The fee calculation form did not meet the requirements for an updated cost estimate in that it was not based upon specific maximum storage capacity to include itemized costs for removal per ton, loading and transportation costs, site clean-up, other miscellaneous closure work, or a contingency amount. The Standby Trust Agreement did not conform to DES specifications.
- (t) 9/18/01 DES staff spoke with BNH personnel who said the bank could not modify the Standby Trust Agreement, that the Agreement had been brought in by Mr. Peard for signatures, and that Mr. Peard would be responsible for any changes in the Agreement.

12. As of December 5, 2001, Monadnock has not submitted to DES a completed updated cost estimate or an acceptable Standby Trust Agreement as required by Env-Wm 3100.

D. DETERMINATION OF VIOLATIONS

1. Monadnock Disposal Service, Inc. has violated RSA 149-M:9,X, Env-Wm 3105.02(a) and (b) , Env-Wm 3103.02(g)(1) and (2), and Env-Wm 3103.03(b) and (e) by failing to submit the required financial assurance documents to DES.

E. ORDER

Based on the above findings, DES hereby orders Monadnock Disposal Service, Inc. as follows

Within fourteen (14) calendar days of this Order, submit to DES

- (a) an updated closure cost estimate on the form enclosed with this Order, itemizing the cost of removal, loading, and transportation, site clean-up, and any other miscellaneous closure work including a 10% contingency, based on the maximum permitted storage capacity of the Facility and all work completed by a third party; and
- (b) a duly executed Standby Trust Agreement that meets DES requirements.

Please send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Mr. Richard S. Reed, Administrator
Solid Waste Management Bureau
NHDES, Waste Management Division
6 Hazen Drive
Concord, NH 03301-6509

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council, by filing an appeal that meets the requirements specified in Env-WMC 200 Procedural Rules within 30 days of the date of this Order. Copies of the rules are available from DES Public information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Monadnock Disposal Service, Inc. of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 149-M provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Monadnock Disposal, Inc. remains obligated to comply with all applicable requirements. DES will continue to monitor Monadnock Disposal Service, Inc.'s compliance with applicable requirements and will take appropriate action if additional violations are discovered.


COPY

Philip J. O'Brien, Ph.D., Director
Waste Management Division


COPY

George Dana Bisbee, Assistant Commissioner
Department of Environmental Services

CERTIFIED MAIL/RRR # 7099 3400 0018 1299 2774

cc Gretchen C. Rule, DES Enforcement Coordinator
 Public Information Officer, DES PIP Office
 Michael J. Walls, Associate Attorney General
 Catherine A. Wright, Inspector, SWMB
 FA File

